IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 202 OF 2006

Mrs. Farah Shafiq Mulla and Ors. .. Petitioners

Vs.

The State of Maharashtra and ors. .. Respondents

Mr. R.D. Suryawanshi for the Petitioners.
Mr. K.V. Saste, APP for State.
Mr. Shivraj Patil for Respondent No.5.
Resp.No.5 and Petitioner Nos.1 and 2 present.

CORAM : B. H. MARLAPALLE &
SMT. R.S. DALVI,JJ.

Date : February 13, 2006.

P.C.:

1. Heard the learned counsel for the petitioners and respondent no.5 as well as the learned APP.

2. The petitioner no.1 is the daughter of respondent no.5, who registered a complaint that the petitioner no.1, while a minor, was kidnapped by petitioner nos.2 and 3 and it came to be registered as C.R. No.I-02 of 2006 on 5/1/2006 with Wada Police Station in Thane District. It also appears that Misc.Application No.3 of 2006 has been filed by the respondent no.5 under Section 97 of the Cr.P.C. In

the meanwhile petitioner nos.2 and 3 have been granted anticipatory bail by the learned 2nd Additional Sessions Judge at Thane on 13/1/2006. The learned counsel for the petitioners invited our attention to the certificate alleged to have been issued on 28/12/2005 showing that the petitioner no.1 is married to petitioner no.2 and that too by her own free will. It is also contended that she has attained the age of 19 years and she, not being minor, is entitled to take her own decisions.

3. On the other hand, the respondent no.5 in his affidavit in reply has stated that the petitioner no.1 is born on 31/12/1988 as per the record of the K.M.E. Society's English Medium High School & Jr. College at Bhiwandi and she was minor when she was kidnapped, in the month of December, 2005. The age of the petitioner no.1 is a subject matter of verification before the appropriate forum and the petitioners, as at present, only pray for directions to give protection to petitioner nos.1 and 2 as they apprehend that father of petitioner no.1 i.e. respondent no.5 is likely to take some coercive steps including causing danger to the life of petitioner no.1 as well as the life of her husband i.e. petitioner no.2. The learned counsel for the respondent no.5 made a

statement in the court that the respondent no.5 is a law abiding citizen and he will follow only the legal methods in deciding the pending complaints and he would not in any way harm his daughter or the other petitioners, notwithstanding his contentions that the marriage claimed to have been performed between the petitioner no.1 and petitioner no.2 is a fabricated affair and it does not have support in law.

4. The petitioner no.1, along with her husband, has met one of us (Smt. R.S. Dalvi,J.) in the Chamber. So also the respondent no.5 and his wife were interviewed in the Chamber. It is clear that the petitioner no.1 has entered the matrimonial relationship with petitioner no.2 by her own free will and at the same time the respondent no.5 and his wife are also equally serious about the welfare of their daughter i.e. petitioner no.1. They expect her to pursue higher studies so that financially she is independent. The petitioner no.2 has assured that he would lend all the support to petitioner no.1 to pursue higher studies in future in case she desires to do so.

5. In view of the undertaking furnished before us on behalf of the respondent no.5, who is present in

the court along with his wife, we are satisfied that no directions are required to be given as prayed for the protection of any of the petitioners and we have noted and accepted the undertaking furnished by the respondent no.5.

6. Petition stands disposed off accordingly.

(Smt.R.S. Dalvi,J.) **(B.H. Marlapalle, J.)**